

Dear Jim, re renewed Wisconsin deposition NW 7/14/79

Yesterday and today, humid days if that figures in it, are not good days. But I've been dragging because Rae finished the searches I asked of her and Lil has finished the copying, single copies from which I'll make exhibit copies.

There may be more two thing things she copied but I remember them, she found them, and I've written the enclosed 6 pages on them. So fast I didn't look at the carbon paper, for which my apologies.

Between the new manifestations of dizziness, when I get up after I've been walking around half a day, a bit of uneasiness over it, and a desire to get this all done so you can go over it, I went too fast and got careless. There is a serious mistake in the attached that I suddenly realized. All it means is removing those questions. The suit had not been filed by the time of the first of the two memos. That will shorten this a bit. I do intend this as the opening of the renewed Wisconsin deposing. I do intend it to be tough and to provoke Betsy, particularly because she will have no basis for reacting except to cover up, which will be clear. That note, which occurred to me too late, should be moved forward.

I also want to psyche you up a bit, so I ask that every time you take a break from the many things that keep you busy - don't interrupt them, only when you stop - think a single word - jagular, no more on this. Then I want you to have a single vision - the check you get. Both at the same time.

Also, I have another idea, one that can ease the burden on you and reduce your probability of losing track of papers. We have time and I'll use Rae for this. She handles the copies for the other side. We identify them with, out numbers, not exhibit numbers, and when you refer to them she can hand them over. This will also reduce your stack considerably and it will eliminate one distraction for you.

This will mean that you can staple the documents to the questions and have that much less chance of getting them confused and mislaid.

I intend to follow this with more records they had that neither turned up on their search slip nor are in the MURKIN files although they are captioned MURKIN. These all relate to Item 7. (My hunch is not to give them the source to begin with but if you promise to let them guess for a while I'll tell you "bug tickler, even purged version. I think it will be much better to come back to that at the end, where it will provide multiple explanation points after MURKIN only searches for MURKIN records.)

You may want to make changes. You may not like some of this. Some is not your style. But as you agreed when I raised this question some days ago, unless there is a compelling reason not to you agree to do it this way. That does not mean without changes. You may want to make some changes, even additions. But this one time I want you firmly on the ground, with no distractions and with all your planned question prepared, available and easily handled. If you do this, that is make any changes you want, I'll get it retyped and flux fixed up for you to eliminate all your endless shuffling of papers, as I did before you were here and it worked then. You haven't corrupted the world that much - yet - so it will work again and make all much easier for you.

All of this comes from records you have. Maybe your recollection will be triggered. This represents all I recalled, but if you think you recall something else DON'T look for it, tell me about it and Rae will do the searching. Besides, she learns from it and likes it and we'd need the record for making copies anyway.

There may be questions other than I intended out of logical sequence. But I intended some to try to unbalance him. To make him think it is past and then learn it isn't.

Please go over the attached, correct and suggest, make a copy and return this one. Just to protect against mail loss. We'll do the retyping, etc.

We'll do this bastard in and I think you'll learn much from it and benefit in other ways. Hastily,

Serial 6002X is the 11/3/75 memo from J.J. McDermitt to Mr. Cochran, captioned as the request at issue in this litigation and a more restricted request by CBS News. It bears your initials. Did you write this memo?

Would you please identify the other two men?

I ask you to look at the Serial Number. Can you tell us the significance of the X? Most HURKIN records have an X in their numbers.

In the upper right-hand corner there is a list of components, a routing indication. Does it hold any indication of any distribution? (It doesn't)

Next to your initials 3 copies are indicated, right?

For what purposes did you have the other copies made?

Where would they be filed?

The caption begins "Freedom of Information Act requests." Is there not apparently a special file for FOIA requests? (190)

Why is no filing indicated for the 190 file, as is customary from the other records to which you have testified?

Most of the records Mr. Weisberg has received relating to his FOIA requests were routed to others in the FBI, some of whom added comment. Can you explain the absence of any indication of any indication of this on this Serial?

The stamp on this record indicated it was serialized and filed on March 2, 1976, is that correct? (If he says no get him to explain the absence of earlier indication of filing.)

Does it usually require four months to get a memorandum to the files?

Can this four month lag indicate late filing and could that account for or be involved in the use of the X?

If one record were to be added to a list of sequentially numbered records and the number of the sequence was used the correct number would immediately indicate when it was filed, would it not?

Does not the use of the X permit the latter insertion of a record or records?

Is there any other way of which you know ^{or} can think of giving a record a sequential number that is not its actual number in the sequence?

Suppose you were going to substitute one copy for another -- can you think of any other way of having the files indicate this or the record itself indicating it within the FBI?

Please look at the file number and serial. Is it not a fact that the file number is largely invisible whereas the serial number is much larger in size and quite black. Does this look to you as though one person entered both numbers at the same time?

I show you another record on the same subject and from the same file, for the moment only so you can compare the indications relating to filing on it. This is the 12/16/75 memo from J.E. Poolman to Mr. Callaghan ^{by}. Can you ascertain either the file or serial number from it?

Is it not a fact that this record is stamped with a 12/31/75 date of filing?

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

How can you explain that a record of a month and a half later was stamped for filing two full months earlier than the 11/3/75 memo you wrote?

Does not the second memo have routing indicated in the same place on the same form with six other names added for distribution of copies?

This second record also relates to an FOIA request. Can you explain the apparent absence of filing in the proper file for these requests?

When it was prepared the file number of the MURKIN records, 44-38861 was typed on. Why did you not follow this practice with the memo you wrote? With regard to either MURKIN or FOIA filing?

There are other differences between these two records about which I ask you to testify. The 12/16 record bears no marks indicating indexing, am I right?

Then how could the FBI retrieve it? (Obvious answer, wrong copy.)

Now look at your 11/3 memo. Does it not bear indications made for indexing, as under "dissemination" and "cost"?

There is no indication of name indexing, is there, Mr. Weisberg's name, Mr. Leimer's

or minor

Is it not a fact, as the attachment to the second record can remind you, that I filed suit for Mr. Weisberg a week before you wrote your memo?

Can it be that the FBI does not need or want to retrieve from its files records relating to suits filed against it, especially over its record in the greatest manhunt in its history?

Am I to understand the opposite of what so many records I've seen indicates, that the FBI's Central Files have no indexing of Mr. Weisberg?

Isn't it a fact that the FBI has him filed in a wide assortment of subversions and domestic intelligence files, including espionage and treason? (If he says no--)

So I tell you this is the fact and I ask you how the FBI could fail to index this man who in its latter moments it refers to as "notorious," a man it does have filed under treason and espionage and internal security - even his FOIA requests are filed under internal security? How can this possibly be?

How did you manage to fail to mention that suit had been filed when you wrote about this matter a week after the suit was filed?

Returning to indexing: your prior testimony is that the Central Files index is limited to names and names only. As we've seen no names are marked for indexing in these two records. But the indexing marks on the second memo exist - for subject indexing. However, you testified that Central Files has no subject indexing. How can you explain this? (One obvious explanation is a separate index, possibly outside Central Files.)

Does it not appear that similar marks have been added for the Department's FOIA unit, to which no copy is otherwise indicated on this record?

Does it not also appear that "legality of withholding" is indexed?

Is this not a subject to which the FBI might want to refer in the future without reading the entire MURKIN file?

How can you reconcile this with your previous testimony? That only names are indexed and that subjects never are and that the FBI has to read entire files to retrieve by subject - for anything, any subject?

Let us stop fencing, Mr. Wiseman, and let's forget about the fakes and needles stuff. Can you imagine clearer indication, absent an instruction book, of multiple sets of records and multiple indexes? (He'll fence and evade and maybe Betsy will holler but persist)

They please give me your explanation for both the added marks and the absence of marks and relate that to the dates of the records and the filing stamps and the X marks.

Your memo isn't even captioned MURKIN but it got there. Your memo is captioned FOIA but from this record it never got there. Is this how you got to be an FBI FOIA supervisor -- and by not mentioning a lawsuit against the FBI and by not indicating any distribution after there is a lawsuit filed against the FBI?

If he has behaved badly enough and has weaselled or clearly enough lied:

If a high school freshman were to testify as you have would you believe him or believe he has all his marbles?

Now you testified that of the ^{seven} ~~ten~~ items of Mr. Weisberg's request you turned the ~~me~~ first six over to the Lab and Mr. Kilty and handled the seventh yourself. Your personal handling appears to have been to have nothing at all to do with searching for and compliance with Item 7, from your prior testimony, which made you the most qualified person in the FBI to provide three different affirmations. You left everything to somebody ^{else} ~~and~~ and nobody else provided the affidavit of compliance or responded to the interrogatories. Except for Mr. Kilty's affidavit relating to the Lab records.

You also testified that you believed Mr. Kilty provided you with a written report but there being a duces tecum subpoena you managed not to bring his report.

Please turn to page 2 of the addendum of your 11/3/75 memo. It is headed "Laboratory Addendum," followed by Mr. Kilty's name, the date 11/14/75, and reference to 8 enclosures that are listed in the body of the addendum. Is this the report you referred to? And are these, as they appear to be, the materials you furnished to me for Mr. Weisberg?

Was there any other report to you on his searches by Mr. Kilty prior to your

giving me these records and representing that as full compliance with Mr. Weisberg's request?

(If he says there is another, ask for it or them and given them to me while you continue to question. Do not back interruptions by DeJoy, if necessary by battling her down absent some legitimate legal objection. She will be wanting to interrupt you and give him time to cook things up.)

I read you the first works of Mr. Kilty's addendum: "It appears that Items 1 through 4 of Loefer's letter of April 15, 1975...are laboratory matters."

You testified that you had only Item 7 searched and found nothing at all, even though you since have seen records from the file you searched that are relevant and you did not provide.

You also swore to compliance three times.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

You were firm and positive that you handled 7 only. You were equally firm and positive that Kilty did the first six.

I asked you about Items 5 and 6 and you were positive on them- you'd turned them over to Kilty. I wondered why the Lab would know about the pictures involved and you insisted it was Kilty and only Kilty. Now we have Mr. Kilty's own memo, the one you managed to forget last time, and he states with no ifs and buts that he had nothing to do with Items 5 and 6. Yet you provided three ~~affix~~ affidavits, did you not?

FBI DCIA

We now know that the predominant qualification for executing an affidavit is ignorance and that those who have personal knowledge are disqualified and don't prepare the affidavits. But are you telling us that you executed three affidavits when the attachment to your own memo reveals no search at all from Items 5 and 6 and you swore that no such records exist?

How could you?

Do you recall Mr. Weisberg's writing you that you had sworn falsely, that he informed AUSA Dugan, that he wrote the Directors did you draft that response?

Do you recall Mr. Weisberg's suggesting that you relieve this false swearing?

Did you ever respond?

Did you ask yourself what he could have been talking about? Anyone else? WHO?

Did you take this up with counsel, not that you are not a lawyer?

Did you even look at your own nose to see if it could have told you?

In short you did nothing at all when informed that you had sworn falsely to a federal court? (except maybe write non-responsive letters over the Director's name.)

Is it not a fact that you swore there were no pictures of the scene of this great crime?

None of other suspects?

You testified in early July that through Mr. Weisberg's leads you located the pictures of the scene of the crime you swore did not exist. Did it not occur to you then that you might want to file a correcting affidavit, so the Court would not be misinformed?

Is false swearing a serious matter to you, even in CIA cases?

Do you prize your personal reputation for integrity and honesty?

Did it ever occur to you that your false swearing might have done some harm to the old man I represent and that you might want to apologize?

Did it ever occur to you that prizing your reputation as you do, even though you did not heed his admittedly accurate information, that you had sworn falsely, you might have wanted to express some human feeling over his informing you?

Now let us get back to the specific items of Mr. Weisberg's request. I ask you if you have conducted any further searches, either for compliance, in response to the subpoena or as a result of what you learned at our two prior sessions?

If you please tell us what if anything you have done, what records if any you brought. (If any, get them all.)

(Give him time to explain anything he wants to change or explain and then ask if that is all)

From here lets return to Item 7